

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

DAVID C. FORNEY,

Plaintiff,

V.

HINEMAN, Govenor, and KEITH
COUNTY, NEBRASKA,

Defendants.

4:09CV3033

MEMORANDUM AND ORDER

This matter is before the court on Plaintiff's Motion to Reopen. (Filing No. [56](#).) In his Motion, Plaintiff asks the court to reopen this case so that he may pursue his habeas corpus claims. (*Id.*) For the reasons discussed below Plaintiff's Motion is denied.

On December 2, 2009, the court dismissed this matter without prejudice and entered Judgment against Plaintiff. (Filing Nos. [53](#) and [54](#).) In its December 2, 2009, Memorandum and Order, the court concluded that some of Plaintiff's claims were barred by [*Heck v. Humphrey*, 512 U.S. 477 \(1994\)](#). (Filing No. [53](#) at CM/ECF p. 3.) The court dismissed those claims without prejudice to reassertion in a habeas corpus or similar proceeding. (*Id.*)

As the court previously informed Plaintiff, claims relating to the validity of an individual's incarceration may not be brought in a civil rights case, regardless of the relief sought. (Filing No. [53](#) at CM/ECF p. 3.) *See also* [Heck, 512 U.S. at 486-87](#). This matter is a civil rights case that has been closed for almost a year. If Plaintiff desires to file a Petition for Writ of Habeas Corpus, he must file it as a separate case.

IT IS THEREFORE ORDERED that Plaintiff's Motion to Reopen (filing no. 56) is denied.

DATED this 9th day of November, 2010.

BY THE COURT:

Richard G. Kopf
United States District Judge

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